

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Status of Claims:

No claims are currently being canceled.

Claims 1 and 8 are currently being amended.

Claims 15-18 are currently being added.

This amendment adds and amends in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-18 are now pending in this application.

Claim Rejections – Prior Art:

In the Office Action, claims 1-4 and 8-11 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2003/0117983 to Ton et al.; claims 5, 6, 12 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ton et al. in view of U.S. Patent Publication No. 2003/0185190 to Chitrapu et al.; and claims 7 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ton et al. in view of Chitrapu et al. and further in view of U.S. Patent Publication No. 2002/0085512 to Lehtimaki et al. These rejections are traversed with respect to the presently pending claims under rejection, for at least the reasons given below.

On page 2 of the Office Action, it asserts that “Inherently, once the user plane 212, GTP-U, failed or was shutdown . . . traffic builds up and causes congestion in the system.” As the Office Action recognizes, Ton et al. is directed to a system whereby a backup processing system is controlled to perform processing, when a primary processing system fails. However, as recited in each of the presently pending independent claims, when detecting a congestion state of processing, the first user plane processing means transfers a

first part of the processing to the second user plane processing means while maintaining a second part of the processing at the first user plane processing means.

Clearly, Ton et al.'s system is not capable of maintaining some of the processing at GTP-U, since that processing system has failed. Ton et al. does not recognize a situation to allow more than one GTP-U to share the processing; rather, it transfers all of the processing done at one GTP-U, to another GTP-U, when the first GTP-U has failed.

Accordingly, since neither Chitrapu et al. nor Lehtimaki et al. rectifies the above-mentioned shortcomings of Ton et al., presently pending claims 1-14 are patentable over the cited art of record.

New Claims:

New claims 15-18 have been added to recite additional features of the present invention that are believed to provide a separate basis for patentability of those claims. For example, claims 15 and 16 recite that the congestion state of processing corresponds to the first user plane processing means operating in a normal state of operation, but with an input amount of data to be processed by the first user plane processing means being greater than a predetermined amount. In Ton et al., on the contrary, he only performs transferring of processing from one GTU-P to another GTU-P, when the first GTU-P has failed.

New claims 17 and 18 recite that the first user plane processing means controls the transfer of the second part of the processing to the second user plane processing means. Clearly, this cannot happen in the system of Ton et al., since the GTU-P for which processing is to be transferred, is in a failure mode, and is not capable of transferring or controlling anything. Rather, as explained in paragraph 0043 of Ton et al., a Routing Engine (RE) 222 is informed of a failure of a GTU-P, such as a failure of GTP-C 212. RE 222 then notifies GTP-C/m 204 of that failure of GTP-C 212, whereby GTP-C/m 204 activates a spare STP-U 217 by sending an Activate Spare GTP-U request message. Clearly, none of the processing transfer control in Ton et al. is done by his failed GTP-C 212, but rather it is performed by other devices.

Conclusion:

Since all of the issues raised in the Office Action have been addressed by this Amendment and Reply, Applicant believes that the present application is now in condition for allowance, and an early indication of allowance is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date July, 27, 2005

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5407
Facsimile: (202) 672-5399

By Phillip J. Articola

David A. Blumenthal
Registration No. 26,257

Phillip J. Articola
Registration No. 38,819